

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WILLIAM H. EVANS, JR., :
Plaintiff, : NO. 1:06-CV-00342
v. :
TERRY COLLINS, :
Defendant. : **OPINION AND ORDER**

This matter is before the Court on the Report and Recommendation in which the assigned Magistrate Judge recommended that Defendant's motion to dismiss be denied (doc. 25). For the reasons indicated herein, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety and DENIES Defendant's motion to dismiss (doc. 14).

On June 6, 2006, Plaintiff William Evans, Jr., an inmate at the Southern Ohio Correctional Facility in Lucasville, Ohio, filed a complaint against Defendant Terry Collins, the Director of the Ohio Department of Rehabilitation and Correction ("ODRC") pursuant to 42 U.S.C. § 1983 (doc. 1). Plaintiff alleges that because his Nazirite faith dictates that he wear his hair long, the ODRC grooming policies that require him to cut his hair above his ears and collar are in violation of his First Amendment right to freedom of religion (Id.). On August 2, 2006, Defendant filed a motion to dismiss the complaint, claiming that by not specifically naming Defendant Collins during the Ohio Administrative Code

grievance process, Plaintiff had failed to exhaust his administrative remedies in accordance with the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a) (doc. 14). Plaintiff countered that he did not name Defendant because he was notified by the Office of the Chief Inspector that a grievance could not be directed against the Defendant (doc. 15).

On January 1, 2007, the Magistrate Judge issued a Report and Recommendation finding Defendant's motion not well-taken (doc. 25). After reviewing the parties' arguments and the relevant grievance procedures, the Magistrate Judge found that Plaintiff's complaint and the documents that accompany it "put Defendant on fair notice of the basis of plaintiff's constitutional claim...and, therefore, are sufficient to meet his burden of proving exhaustion" (Id.). The Court finds the Magistrate Judge's Report and Recommendation well-reasoned, thorough, and correct.

The Parties were served with the Report and Recommendation and were therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Neither Party filed any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C).

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636(b), the COURT ADOPTS the Magistrate Judge's Report and Recommendation (doc. 25) in its entirety, and therefore, DENIES Defendant's motion to dismiss (doc. 14).

SO ORDERED.

Dated: February 27, 2007

s/S. Arthur Spiegel

S. Arthur Spiegel

United States Senior District Judge